

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT COURT OF WEST VIRGINIA**

AT CHARLESTON

**DONALD ELKINS, Administrator
of the Estate of Kathy Hensley,
and SHEILA ELKINS,**

Plaintiffs,

v.

**Civil Action No.2:08-CV-1403
Judge Goodwin**

**MONUMENTAL LIFE INSURANCE
COMPANY,**

Defendant.

STIPULATION OF DISMISSAL

On this date came the parties, by counsel, Christopher J. Heavens for plaintiffs, and Teresa A. Kleeh for defendant Monumental Life Insurance Company pursuant to F.R.C.P. 41(a)(1)(ii) and enter into this voluntary stipulation of dismissal of Count II (Fraud and Misrepresentation), Count III (Bad Faith of Defendant, Monumental), Count IV (Unfair Claim Settlement Practices of Defendant, Monumental), and Count VI (Actual Malice of Defendant, Monumental Life Insurance Company) of plaintiffs' Complaint, with prejudice.

DONALD ELKINS and SHEILA ELKINS
By Counsel

MONUMENTAL LIFE INSURANCE
COMPANY
By Counsel

/s/Christopher J. Heavens
Christopher J. Heavens, Esq.
WV Bar No. 5776
HEAVENS LAW OFFICES
P. O. Box 3711
Charleston, WV 25337-3711

/s/ Teresa A. Kleeh
Teresa A. Kleeh, Esq.
WV Bar No. 7189
STEPTOE & JOHNSON PLLC
P. O. Box 1588
Charleston, WV 25326-1588